

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON D.C. 20554**

In the Matter of:

Lifeline and Link-Up Reform and Modernization	WC Docket No.11-42
Telecommunications Carriers Eligible for Universal Service Support	WC Docket No.09-197
Connect America Fund	WC Docket No.10-90

**PETITION OF
THE NEW MEXICO PUBLIC REGULATION COMMISSION
FOR TEMPORARY WAIVER**

Pursuant to Section 1.3 of the Federal Communications Commission's ("FCC") rules, the New Mexico Public Regulation Commission ("NMPRC") requests a temporary waiver of the revised federal Lifeline eligibility rules, §§ 54.400(f)(IRS gross income) and (j) (Qualifying assistance program) and 54.409 (a) and (b), (Consumer qualification for Lifeline) and of those sections of the Lifeline Order that prohibit Lifeline providers from continuing to enroll consumers in the federal Lifeline program based on state-specific program and income eligibility criteria. These rules are scheduled to go into effect on December 2, 2016.

The NMPRC requests a temporary waiver from implementation of these rules and their supporting processes until June 2, 2017 because the Commission, its LifeLine

payment administrator, Solix, Inc. and the Lifeline providers need more time to make technical, administrative, and operational changes.¹

New Mexico has no official eligibility data base. Solix “administers payments” based on service providers’ eligibility determinations at the federal level. As long as Eligibility Criteria remained the same, a 497 submission to USAC was the basis of the \$3.50 supplemental program under state lifeline rules. Not having a database in New Mexico, we contend will result in more confusion and errors as low income customers and service providers have two sets of eligibility criteria in the pipeline, until the issues are harmonized as “rolling certification” gradually results in a “standard eligibility criteria.”

The NMPRC requests a temporary waiver of seven months because “Low Income Telephone Assistance” recipients currently receive additional subsidies from the New Mexico State Rural Universal Service Fund for the following eligibility criteria: Low Income Home Energy Assistance Program (LIHEAP), the Temporary Assistance for Needy Families (TANF) and the National School Lunch Program (NSLP) and income determination at or below 150% of the federal poverty guidelines. These programs are no longer eligible under the new federal rule.

New FCC Lifeline Criteria:

- Supplemental Nutrition Assistance Program (SNAP), formerly known as Food Stamps;
- Medicaid;

¹ At its open meeting on Wednesday, November 23, 2016, a majority of the New Mexico Public Regulation Commission voted to authorize a petition to the FCC for a temporary waiver for implementation of the federal eligibility criteria.

- Supplemental Security Income (SSI);
- Federal Public Housing Assistance
- Veterans Pension and Survivors Benefit

The confusion for current Lifeline providers in New Mexico and low income customers who must provide documentation because there is no state data base, is that current state Lifeline eligibility criteria of: (TANF) Temporary Assistance to Needy Families, LIHEAP, National School Lunch Program (NSLP), and 150% income eligibility criteria will no longer be applicable for prospective Lifeline customers in New Mexico, except for the application of a \$3.50 state LITAP credit. For example, a customer may qualify at 150% of the federal poverty guidelines for a state LITAP credit, but will not qualify for or receive the federal \$9.25 Lifeline credit. The same would hold for TANF, LIHEAP and NSLP eligible customers in New Mexico. There were many states in the same predicament as New Mexico whereby the state eligibility criteria did not match the federal criteria. A number have applied for their own state waivers. A recent report from NLAD indicates the following number of lifeline subscribers (by program) in New Mexico, some of whom will be affected by the incongruity between the federal and the state lifeline eligibility rules.

Program	Count of Subscribers
Medicaid	46,303
SNAP	37,401
Income	6,799
SSI	6,053

State Assistance Program	1,527
NSLP	1,368
LIHEAP	1,070
FPHA	975
Food Distribution Program on Indian Reservations (FDPIR)	965
TANF	139
Bureau of Indian Affairs General Assistance	105
Program Eligibility Approved by State Administrator	72
Tribal TANF	58
Tribal Head Start	42
Total	102,877

This information indicates that a considerable number of low income persons in New Mexico may no longer receive the federal discount of \$9.25/month even though they may be eligible under other criteria than the legacy criteria resulting in their disqualification.

The short extension of time requested would allow the state to maximize the benefits established in the new FCC Lifeline Order, amend the existing state Lifeline rules (17. 11.11 NMAC) which were previously in sync with Federal Lifeline eligibility regulations, and have the Lifeline Service Providers amend their Lifeline applications and advertising to comport with the new federal eligibility criteria so that Lifeline

customers can receive the maximum discount that they are entitled to under both federal and state programs.

The following amounts have recently been provided by these New Mexico largest carriers/providers from state USF funds annually:

Additional LITAP benefits from State Rural Universal Service Fund in calendar year 2015*:

Qwest (CenturyLink)	\$ 305,942.51
Smith Bagley, Inc.	\$ 144,242.00
Valor Telecommunications of Texas (Windstream)	\$ 49,472.50
LEACO Wireless	\$ 26,183.50
Western New Mexico Telephone Company	\$ 17,824.80
ENMR Telephone Cooperative	\$ 16,968.00
La Jicarita Rural Telephone Cooperative	\$ 11,543.00
Tularosa Basin Telephone Company	\$ 10,913.00
Sacred Wind Communications	\$ 4,389.00
LEACO Rural Telephone Coop	\$ 4,326.00
CenturyTel of Southwest	\$ 2,215.50
Roosevelt County Rural Telephone Coop	\$ 2,068.50
Penasco Valley Telephone Cooperative	\$ 2,019.50
Valley Telephone Cooperative	\$ 1,575.12
Baca Valley Telephone Co	\$ 875.00
Dell Telephone Cooperative	\$ 178.50
TOTAL	<u>\$ 600,736.43</u>

*roughly \$3.50 per reported FCC 497 federal lifeline plus verified expenses in some cases for local expenses. From Solix, payments manager.

New Mexico is a relative large state area wise, but it has a low population density and a fairly high poverty index. There may be additional verification problems because Solix, the administrator, checks information from carrier-submitted Form 497's submitted by the carriers to the FCC monthly, and reimburses those carriers for LITAP payments based upon that information. All of these issues will take time to resolve.

Request for Waiver

It is New Mexico's understanding that the FCC may waive its rules for good cause shown; New Mexico is asking only for a temporary waiver of application of the FCC eligibility requirements of seven months. Given the current misalignment between New Mexico Low Income Telephone Assistance Rules (LITAP) and federal lifeline regulations, the New Mexico Public Regulation Commission respectfully requests, pursuant to 47 C.F.R. § 1.3, that the FCC grant a waiver of the revised rules 54.400(f) and (j) as well as 54.409(a); and of those sections of the Lifeline Order that prohibit Lifeline providers from continuing to enroll consumers in the federal Lifeline program on state-specific program and income eligibility criteria.

November 28, 2016



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